

Notice of Allowability

Application No.

10/646,584

Examiner

John W. Zerr

Applicant(s)

PEARCE ET AL.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Application and Preliminary Amendment filed on 22 August 2003.
2. ☒ The allowed claim(s) is/are 22-62.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☒ including changes required by the proposed drawing correction filed 22 August 2003, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

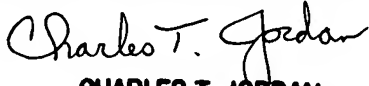
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1 ☐ Notice of References Cited (PTO-892)
- 2 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3 ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. 8/22,12/8
- 4 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

- 5 ☐ Notice of Informal Patent Application (PTO-152)
- 6 ☐ Interview Summary (PTO-413), Paper No. _____.
- 7 ☒ Examiner's Amendment/Comment
- 8 ☒ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other


CHARLES T. JORDAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Monty L. Ross on 22 January 2004.

The application has been amended as follows:

In the Specification the following has been deleted from page 1:

“CROSS-REFERENCE TO RELATED APPLICATION

This application is a continuation-in-pad of U.S. application Ser. No. 09/457,899, filed December 9, 1999, now abandoned.”

2. The following is an examiner's statement of reasons for allowance: the prior art does not disclose a method of dispersing a control agent within a target area or to a target that comprises the steps of providing a projectile comprising a body member and a cap member where an open end body member is insertable into the cap member and frictionally engages the sidewall of the cap member with the projectile containing a control agent selected from the group consisting of pesticides, herbicides and fungicides, providing a projectile launcher that utilizes pressurized gas, selectively loading the projectile into the launcher in a desired or predetermined, aiming the launcher and then launching the projectile at the target or target area. Several prior art devices, including MacDonald (USPT 5,174,807, cited by Applicant), disclose launchers and methods for applying a control agent that includes a pesticide, herbicide or fungicide to a target or target area

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via a projectile. These devices do not specifically recite a method step wherein a projectile is purposefully loaded in a particular orientation as is recited in Applicant's claimed method. Rather projectiles resemble paintballs and fall into the firing chamber from a hopper in a random orientation. Several prior art projectiles, including Kotsiopoulos (USPT 5,254,379, cited by Applicant), are formed by fitting body and cap type members to one another with a load placed within the projectile but do not specifically teach selectively loading the projectiles in a particular orientation. Several prior art devices, including Sweeney (USPT 3,791,303, cited by Applicant), teach selectively loading a projectile in a particular orientation but do not teach the dispersal of a control agent comprising a pesticide, herbicide or fungicide to a target or target area. The Examiner considers that any type of combination of the teachings of the prior art devices described above would fall outside the scope of obviousness.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John W. Zerr whose telephone number is (703) 306-0153. The examiner can normally be reached on M-Th. 8:00am-5:30pm, F 8:00am-4:30pm, alt. F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on (703) 306-4159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

JWZ
1/22/04

Charles T. Jordan
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